

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

Barry Fitzgerald

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Sodexo Inc, NY Presbyterian Queens  
Bankin Parekh,  
Daniel Skupski

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Complaint for Employment  
Discrimination

Case No. **CV 22-3410**  
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☐ No  
(check one)

DONNELLY, J.

POLLAK, M.J.



**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Barry Fitzgerald</u>
Street Address	<u>21 5th James Pl Apt 20N</u>
City and County	<u>Brooklyn, Kings</u>
State and Zip Code	<u>NY, 11205</u>
Telephone Number	<u>917-683-9181</u>
E-mail Address	<u>BARRYWFTZ@GMAIL.COM</u>

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

**Defendant No. 1**

Name	<u>Sodexo Inc</u>
Job or Title (if known)	<u>Employer</u>
Street Address	<u>9801 Washington Boulevard</u>
City and County	<u>Gaithersburg</u>
State and Zip Code	<u>MD, 20878</u>
Telephone Number	<u>855-763-3964</u>
E-mail Address (if known)	<u></u>

**Defendant No. 2**

Name	<u>Daniel Skupski</u>
Job or Title (if known)	<u>Medical Doctor</u>
Street Address	<u>Unknown</u>
City and County	<u></u>

State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
(if known)

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is:

Name Sodexo Inc.  
Street Address 140-52 Booth Memorial Ave  
City and County Flushing  
State and Zip Code NY, 11355  
Telephone Number 855-763-3964

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*

☐ Other federal law (specify the federal law):

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☐ Relevant state law (specify, if known):

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☐ Relevant city or county law (specify, if known):

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### III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts (specify): Civil rights/discrimination

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

1<sup>st</sup> April 2019 - June 2020

June 2020 - March 2021

I was assaulted by my general manager, terminated, and discriminated against by Mr. Skupski a gun was pointed at me and fired. Mr. Skupski began close contact with my employer Sodexo Inc. in order to sweep under the rug and my Queens

C. I believe that defendant(s) (check one):

- ☒ is/are still committing these acts against me.  
☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):

- ☒ race ① Threatened base on race.  
☒ color ② work load much more than other staff. Threatened and discriminated due to color of my skin!  
☐ gender/sex \_\_\_\_\_  
☐ religion \_\_\_\_\_  
☐ national origin \_\_\_\_\_  
☐ age. My year of birth is \_\_\_\_\_. (Give your year of birth only if you are asserting a claim of age discrimination.)  
☐ disability or perceived disability (specify disability) \_\_\_\_\_

E. The facts of my case are as follows. Attach additional pages if needed.

In April 2019, I was hit by my general manager Ben Lin. Porekh, I made complaints nothing was done by HR. My work load increased, compared to other staff and was unable to get overtime. In June 4, 2020 incident was caught on video, on hospital grounds, Mr. Skupski signaled his hand as if it were a gun, tap his waist 2x and fired at me and said "POW". I made complaints to NYP Queens and my employer 30deno INC, I was then blackballed, with write ups and disciplinary charges. I was unable to receive or see the video. Mr. Skupski

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

was never brought up on charges, and I had a witness present with me, who was paid by Mr. Skupski to say that incident never happened. Due to me trying to get that incident never happened. I was terminated, and unable to provide for my family.

**IV. Exhaustion of Federal Administrative Remedies**

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

April 2019 - March 2021

- B. The Equal Employment Opportunity Commission (check one):

- ☐ has not issued a Notice of Right to Sue letter.  
☒ issued a Notice of Right to Sue letter, which I received on (date)

April 29, 2022

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

- ☐ 60 days or more have elapsed.  
☐ less than 60 days have elapsed.

**V. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Damages asking the court for financial  
compensation for harassment, discrimination  
and being terminated from my position,  
also being hit by my general  
manager.



## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6/7, 2022

Signature of Plaintiff

Printed Name of Plaintiff

Barry Fitzgerald  
Barry Fitzgerald



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office  
33 Whitehall St, 5th Floor  
New York, NY 10004  
(929) 506-5270  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 04/29/2022

To: Mr. Barry W. Fitzgerald  
21 Saint James Pl  
BROOKLYN, NY 11205

Charge No: 531-2021-03146

EEOC Representative: D. Young  
Investigator

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### **DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 531-2021-03146.

On behalf of the Commission,

Digitally Signed By: Judy Keenan  
04/29/2022

---

Judy Keenan  
District Director



**Cc:**

Kimberly Hansen

Sodexo, Inc.

kim.hansen@sodexo.com

**Please retain this notice for your records.**



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EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <b>531-2021-03146</b>	
<b>NEW YORK STATE DIVISION OF HUMAN RIGHTS</b> and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) <b>MR. BARRY W FITZGERALD</b>		Home Phone <b>917-683-9181</b>	Year of Birth <b>1985</b>
Street Address City, State and ZIP Code <b>21 SAINT JAMES PL, BROOKLYN, NY 11205</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>SODEXO INC, NEW YORK PRESBYTERIAN QUEENS DR. SKUPSKI</b>		No. Employees, Members <b>Unknown</b>	Phone No. <b>(877) 729-7369</b>
Street Address City, State and ZIP Code <b>9801 WASHINGTONIAN BLVD, GAITHERSBURG, MD 20878</b>			
Name		No. Employees, Members	Phone No.
Street Address City, State and ZIP Code			
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.  I declare under penalty of perjury that the above is true and correct.  <div style="text-align: center;"> <b>Digitally signed by Barry W Fitzgerald on 09-09-2021 03:33 PM EDT</b> </div>	NOTARY - When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)
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☒ EEOC **531-2021-03146**

**NEW YORK STATE DIVISION OF HUMAN RIGHTS**

and EEOC

*State or local Agency, if any*

**I worked for the above-named company since May 2018 as a valet driver until I was threatened on June 4, 2020 when Dr. Daniel Skupski (White) made a hand gesture with his finger like a gun at me. I complained about the Drs threat, which fell on George Floyds funeral, and nothing was done. There was also an incident in 2019, in which my Indian Supervisor, Bankim Parekh elbowed me in the stomach which was reported but nothing was done by upper management. From about June and until I was terminated in March 2021, I was treated differently because of my race (Black) and national origin (African - American) when not given overtime like other workers, including Nascio (Dominican) and Mr. Singh (who shares my supervisors ethnicity). I complained about overtime and continued to complain about the Drs threat along with other events of discrimination. I did good deeds, such that I was placed on my former employers twitter site, as a model employee, yet I was terminated for no good reason. I was not asked to come in early two hours to cover Arilerda Pichardo (Hispanic). As an example, in January 2021 George ? (Hispanic) crashed a ladys car and is still employed, while I was let go for asking for ask for a copy of a video. In February 2021, Willare Armstrong (Black) struck a pedestrian running them over and he was not terminated. Other employees had accidents and did other things which did not result in their suspension, or termination while I was treated much less favorably than them because of my ethnicity and race. When I asked for a copy of the video footage of the dr. threatening me, I was wrongfully suspended on March 19, 2021 pending an investigation. Later, I was wrongfully terminated on March 29, 2021, in retaliation for advocating for my discrimination rights as described above, all in violation of Title VII of the Civil Rights Act of 1964, as amended.**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

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Name <b>SODEXO INC, NEW YORK PRESBYTERIAN QUEENS DR. SKUPSKI</b>		No. Employees, Members <b>Unknown</b>	Phone No. <b>(877) 729-7369</b>
Street Address City, State and ZIP Code <b>9801 WASHINGTONIAN BLVD, GAITHERSBURG, MD 20878</b>			
Name		No. Employees, Members	Phone No.
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DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest <b>01-01-2019 03-29-2021</b> <input type="checkbox"/> CONTINUING ACTION	
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and EEOC

*State or local Agency, if any*

**I worked for the above-named company since May 2018 as a valet driver until I was threatened on June 4, 2020 when Dr. Daniel Skupski (White) made a hand gesture with his finger like a gun at me. I complained about the Drs threat, which fell on George Floyds funeral, and nothing was done. There was also an incident in 2019, in which my Indian Supervisor, Bankim Parekh elbowed me in the stomach which was reported but nothing was done by upper management. From about June and until I was terminated in March 2021, I was treated differently because of my race (Black) and national origin (African - American) when not given overtime like other workers, including Nascio (Dominican) and Mr. Singh (who shares my supervisors ethnicity). I complained about overtime and continued to complain about the Drs threat along with other events of discrimination. I did good deeds, such that I was placed on my former employers twitter site, as a model employee, yet I was terminated for no good reason. I was not asked to come in early two hours to cover Arilerda Pichardo (Hispanic). As an example, in January 2021 George ? (Hispanic) crashed a ladys car and is still employed, while I was let go for asking for ask for a copy of a video. In February 2021, Willare Armstrong (Black) struck a pedestrian running them over and he was not terminated. Other employees had accidents and did other things which did not result in their suspension, or termination while I was treated much less favorably than them because of my ethnicity and race. When I asked for a copy of the video footage of the dr. threatening me, I was wrongfully suspended on March 19, 2021 pending an investigation. Later, I was wrongfully terminated on March 29, 2021, in retaliation for advocating for my discrimination rights as described above, all in violation of Title VII of the Civil Rights Act of 1964, as amended.**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

**Digitally signed by Barry W Fitzgerald on 09-09-2021 03:33 PM EDT**

NOTARY - *When necessary for State and Local Agency Requirements*

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)